



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Banking and Securities

Sarah Palin, Governor
Emil Notti, Commissioner
Mark R. Davis, Director

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For Immediate Release

Contact: Angelina Estrada-Burney, 269-8492

(Anchorage) Mr. Mark Davis, Director of the State of Alaska Division of Banking and Securities, Department of Commerce, Community and Economic Development, issued an advisory notice **concerning the Department of Defense's Final Rule on Limitations on Consumer Credit Extended to Service Members and their Dependents which went into effect this week.**

The Department of Defense has published a final rule that stipulates the terms of certain credit extensions to active duty service members and their dependents ("covered borrowers"). The rule applies to all persons engaged in the business of extending consumer credit and their assignees. The final rule applies to "consumer credit," which the Department of Defense defines as "payday loans," "vehicle title loans" and "tax refund anticipation loans" that meet specific parameters. For these defined transactions with covered borrowers ("covered transactions"), the rule is as follows:

- Limits interest to a 36 percent "military annual percentage rate (MAPR)" that comprises all fees and charges, including those for single premium credit insurance and other ancillary products sold in connection with the transaction; and
- Requires that certain oral and written loan disclosures be provided before the issuance of the covered transaction.

The Defense Department rule provides:

- The applicable consumer disclosures;
- The method for calculating the MAPR (as opposed to the Truth in Lending Act APR);
- The maximum amount and types of fees that may be charged; and
- A "safe harbor" for identifying covered borrowers, including a model borrower identification statement that creditors may use.

The Defense Department rule prohibits:

- mandatory arbitration;
- waiver of legal rights;
- unreasonable notice requirements as a condition for legal action;
- payment by allotment; and
- pre-payment penalties.

The rule further limits or restricts:

- rollovers and refinancing; and
- use of a check or other method of access to a covered borrower's account.

Creditors offering any covered transactions are subject to criminal and civil penalties if they violate the rule. Moreover, consumer credit contracts that are not in compliance with the rule will be deemed void from inception.

The final rule went into effect on October 1, 2007. It applies to covered transactions that are consummated on or after that date. All creditors that offer any covered transactions are expected to be in full compliance by that date.

Director Davis urged all Alaska businesses making loans to military personnel and their dependants to familiarize themselves with the new federal legislation and its Department of Defense rules. The Alaska Division of Banking and Securities license and examines deferred deposit lenders making loans in the State of Alaska.

Department of Defense, 32 C.F.R. Part 232, "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents," Final Rule,
<http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/07-4264.pdf>.